

LAW OFFICE OF DELPHINE JAMES, PLLC

January 5, 2015

The Honorable Judge Gregg Costa  
U.S. District Court  
601 Rosenberg Street  
Suite 613 6<sup>th</sup> Floor  
Galveston, TX 77550

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**RE: Plaintiffs' Motion to Compel Defendants Response to Plaintiffs Request for Production;  
Civil Action No. 6:14-cv-00013. Sarco Creek Ranch, LLC, et al. v. Greeson, et al., in the United  
States District Court for the Southern District of Texas, Victoria Division**

Dear Judge Costa:

The parties held several telephone conferences on the discovery disputes as represented in a prior letter to this court by the Defendants. On November 24, 2014, the parties held a telephone conference with the plaintiff and the parties reached several agreements regarding their discovery disputes. The Defendants' agreed to provide tax returns and other responsive documents. The Defendants' have provided severely redacted tax returns, but have not provided documents other responsive documents that support the tax returns so that plaintiff can perform an accurate accounting of defendants profits. The defendants are refusing to answer plaintiffs' supplemental request for productions asserting that they were untimely.

However, the plaintiffs supplemental discovery requests predominately requests documents that would provide a detail accounting of defendants profits made using the Sarco Creek Ranch Mark. Defendants have produced evidence of use of the mark in commerce and have admitted in their pleading that they market their hunting services utilizing the mark. Additionally, Milton Greeson has testified to sale of 9000 cattle from Sarco Creek Ranch and awards in horse exhibitions. The defendants agreed to produce the responsive documents. As a result, Plaintiff is requesting an accounting of sales by the defendants because William Parmley will be testifying to damages and is not allowed access to the defendants confidential tax returns.

The plaintiffs are requesting that this issue be resolved in the telephone conference

As this discovery dispute involves only  
dispute will wait or  
court will wait after  
deciding it until after  
ruling on pending  
re. liability.

DC  
1/7/15

### **Argument**

1. Discovery may be obtained about any matter that is not privileged and that is relevant to the subject matter of the case. Fed. R. Civ. P. 26(b)(1). Information is discoverable if it appears "reasonably calculated to lead to the discovery of admissible evidence." *Id.*
2. The plaintiffs requested the following requests that the defendants have agreed to provide tax returns and other responsive documents. Defendants have served supplemental discovery but to date plaintiffs have not provided an accounting of yearly revenues on each of their income producing areas for at least the last four years to which plaintiffs are entitled.

REQUEST 34: All costs and income statements (also called profit and loss statements, etc.) which specifically pertain to the sales of all products and service made by the defendants, as described above, i.e., all products and services involved in turkey hunts, sales of cattle, horses, other livestock, and any others made under the sobriquet "Sarco Creek Ranch." If each such product and service is a "cost and profit center," the income statements for each such "cost and profit center" is requested. If such products and services are integral to more consolidated income statements, such income statements are requested.

REQUEST 40: Produce all materials relating to the yearly dollar and unit volume of sales to date and projected future dollar and unit volume of sales for each of Sarco Creek Ranch products or services by any of the defendants.

REQUEST 42: Produce all materials relating to gross and net profits from sales of defendant's Sarco Creek Ranch products or services by any of the defendants.

REQUEST 43: Produce all materials relating to the yearly cost of advertising, marketing, selling and promoting Sarco Creek Ranch products or services by any of the defendants

The court should grant Plaintiff's motion to compel for the following reasons:

Defendant, Milton Greeson, through testimony identified the following type of services at their sarco creek ranch Greeson but have not provided documents of accounting of sales and revenues of each income producing area:

hunting services of various types of animals

filming of hunting shows

Grazing leases

Cattle operations

Cutting Horse Exhibitions

Horse operations

Promotional materials for the ranch

As testified by the Milton Greeson the defendants have an accountant that prepare their taxes. Thus, defendants should have standard accounting documents that have to be provided or produced by the accountant to accurately prepare the taxes of each defendant. In addition to tax returns we are requesting that the defendants provide income statements, ledger journals, and balance sheets prepared by their accountant to support the defendants' tax returns.

The defendants testified by affidavit at the injunction hearing that they had sold 9000 head of cattle from Sarco Creek Ranch along with participate in award competitions, but to date have not provided

accounting documents in relation to any sale of cattle. See Exhibit B There was no accounting provided in discovery regarding any leases, cattle, or award competitions. The defendants provided in Discovery a few documents that show that the defendants have been using Sarco Creek Ranch as a trade name in commerce. See Exhibit A.

The tax returns are only one document that has general profits and losses. However, to produce the tax returns the defendants' accountant have to produce detail ledger accounts, income statements, and balance sheets to support the tax returns for the past four years. Plaintiffs request that the defendants provide an accounting of sale revenues from Sarco Creek Ranch. The defendants have filed motion to compel on plaintiffs and have not provided the agreed documents regarding accounting.

**Conclusion**

Because Plaintiffs' requests are proper and the court should compel Defendants to respond and provide all responsive documents along with an accounting of sales and revenues from Sarco Creek Ranch.

**Sincerely,**

/s/Delphine James/s/

**Delphine James**

CC. Lee Keeling, Attorney for Defendants

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